

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MATTHEW COBADO,

Petitioner,

v.

ORDER  
07-CV-348

JAMES CONWAY, Superintendent  
Attica Correctional Facility,

Respondent.

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This case was referred to Magistrate Judge Victor E. Bianchini, pursuant to 28 U.S.C. § 636(b)(1). Petitioner filed a petition for a writ of habeas corpus. On December 10, 2007, Magistrate Judge Bianchini filed a Report and Recommendation, recommending that petitioner's petition for a writ of habeas corpus be denied.

Petitioner filed objections to the Report and Recommendation on January 15, 2008. Respondent filed a response on January 29, 2008. Petitioner filed a reply to the response on February 7, 2008. Oral argument on the objections was held on August 5, 2008.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and

Recommendation, and after reviewing the submissions and hearing argument from the parties, the Court adopts Magistrate Bianchini's thorough and well-reasoned Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Bianchini's Report and Recommendation, petitioner's petition for a writ of habeas corpus is denied. The Clerk of Court shall take all steps necessary to close the case.

The Court finds that petitioner has failed to make a substantial showing of the denial of a constitutional right and therefore denies his motion for a certificate of appealability. 28 U.S.C. § 2253(c)(2).

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this judgment would not be taken in good faith, and therefore denies leave to appeal *in forma pauperis*. Further requests to proceed on appeal *in forma pauperis* must be filed with the United States Court of Appeals for the Second Circuit in accordance with the requirements of Rule 24 of the Federal Rules of Appellate Procedure.

SO ORDERED.

s/ Richard J. Arcara  
HONORABLE RICHARD J. ARCARA  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

DATED: September 11, 2008